

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 10462 of 2005

Dated: 05-09-2005

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Between:

Mohd. Habeeb Ur Rahaman.

..... PETITIONER

AND

The Municipal Corporation of Hyderabad, rep. by its Commissioner, ,
Tabkbund, Hyderabad and another.

..Respondents.

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 10462 of 2005

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ORDER:

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Initially this writ petition has been filed by the petitioner questioning the action of the respondents-Corporation in rejecting the building application of the petitioner for construction of Ground/First/Second floor in the premises bearing No. 17-1-305/1/A/2/1 situated at Edi Bazaar, Hyderabad.

2. Pending the writ petition, the second respondent issued proceedings vide letter No. 18/ACP/C1/MCH/2005 dated 21-7-2005. Consequently, relief claimed in the writ petition has been amended. The amended prayer reads as follows:

“this Court may be pleased to issue writ, order or direction one in the nature of writ of certiorari quashing the letter dated 21-7-2005 in letter No.18/ACP/C-1/MCH/2005 issued by the 2nd respondent as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents to consider the application of the petitioner for granting building permission in premises No.17-1-305/1/A/2/1, Edi Bazaar, Hyderabad, without having regard to the entry made in TSLR and to pass such other order or orders as this Hon’ble court may deem fit and proper in the circumstances of the case”.

3. The case of the petitioner as set out in the affidavit filed in support of the writ petition is:

The petitioner is the absolute owner and possessor of the house property bearing No.17-1-305/1/A/2/1 having purchased the same under a registered sale deed dated 19-4-2000. His vendors purchased the said property under registered sale deed in the year 1916. He submitted an application for construction of new house by demolishing the existing old house. When the respondents refused to receive the said application, he approached this Court by filing W.P.No.9566 of 2004. The said writ petition came to be disposed of with a direction to the Municipal Corporation to receive the application without insisting for No-objection Certificate. Thereafter, he submitted an application along with title deed and linked documents on 05-01-2005. He also enclosed the TSLR certificate issued by the Director of Survey and Land Records, Hyderabad. The respondents-Corporation considered the application of the petitioner and passed the following order:

“The building application for proposed construction of Ground/First/Second floor in the premises No.17-1-305/1/A/2/1 situated at Edi Bazar, Hyderabad, submitted by you in the reference cited has been refused on the following ground;

As per memo issued by the Deputy Director, Survey and Land Records, the Government interest is involved as the property in question is recorded as “Government” in column No.20 of T.S.L.R.

Hence, your proposal is hereby refused and plans are returned unapproved. Further, you are requested not to proceed any type of construction till the permission is obtained from MCH”.

Hence, the writ petition.

4. Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

5. Learned counsel for the petitioner submits that refusal of the permission by the respondents-Corporation on the ground that the land has been entered in the T.S.L.R., as Government land is not justified. In support of his submission, reliance has been placed in ***HYDERABAD POTTERIES PRIVATE LIMITED V. COLLECTOR, HYDERABAD DISTRICT.***

6. It is no more in dispute that permission for construction of the building cannot be refused on the mere ground that the land has been entered in the T.S.L.R. of the Government. At the same time, that fact could not be ignored. In these cases, what is required to be done by the respondents-Corporation is that the entry in the T.S.L.R. should be considered along with the other records placed by the petitioner/applicant.

7. In the circumstances, the impugned order dated 21-7-2005 is set aside with a direction to the respondents-Corporation to reconsider the application of the petitioner and pass appropriate orders within two months from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition is disposed of. No order as to costs.

sj

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